

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

James A. McKinney,

Petitioners-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 09-77-1201

Parcel No. 190/01495-001-000

On May 21, 2010, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant James A. McKinney was self-represented. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative. The Appeal Board having reviewed the record, heard the testimony and being fully advised, finds:

Findings of Fact

James A. McKinney is the owner of a residentially classified, single-family residence located at 5083 NE 46th Street, Des Moines, Iowa. The property is a one-and-a-half story home, built in 1994, and has 2768 square feet of total living area with a full basement. Other features include a two-car attached garage, an open porch which runs the length of the home and 1234 square feet of deck area. There is also a 30 foot by 45 foot metal pole building, built in 2006, with an 8 foot by 45 foot canopy on the front, and a 26 foot by 30 foot detached garage, built in 1999. The site is two acres.

McKinney protested to the Polk County Board of Review regarding the 2009 assessment allocated as follows: \$34,100 in land value and \$288,200 in improvement value for a total assessment of \$322,300. McKinney asserts the market value of the property is \$249,300.

McKinney's claim was based on the following grounds: 1) that the assessment is not equitable compared with assessment of other like property under Iowa Code section 441.37(1)(a); 2) that the property is assessed for more than the value authorized by section 441.37(1)(b), and; 3) that there is an error in the assessment under section 441.37(1)(d). The error asserted was that the property was over valued, or essentially a market value claim. The Board of Review agreed and reduced the 2009 value to a total assessment of \$308,100, allocated as \$34,100 in land value and \$274,000 in improvement value.

McKinney then appealed to this Board asserting inequity and over assessment, again asserting the market value of the subject property is \$249,300.

McKinney did not offer any new evidence to this Board, and relied upon the evidence he submitted to the Board of Review. McKinney presented four properties he considers as equity comparables, stating his primary condition for selection was based solely on size of the improvements and that he considered land size secondarily. One of the four properties sits on a sixteen-acre site and has an agricultural classification compared to his residential classification. The different assessing methods for agricultural, residential, commercial and industrial classified land make differently classified properties poor comparisons. As such, we do not consider this as a comparable property. Two of the properties are located in a more typical suburban setting on significantly smaller sites, roughly between 10,500 to 11,500 square feet (or .24 to .26 acres) compared to his more rural setting and two-acre site. Due to their location in a subdivision with full city services and significantly smaller sites, we do not consider these comparable properties. The fourth property submitted by McKinney offers more reasonable comparison in site size as it is just under an acre or 41,251 square feet. The improvements are similar in style, size and quality (based upon comparable grade factors). This property, with a smaller site and lacking any outbuildings like the subject, has an assessed value of \$315,500 compared to McKinney's assessment of \$308,100.

McKinney did not offer any evidence to support his position that the market value of the property is \$249,300. The fourth property seems to be the most reasonable comparable, but it does not show the subject property is over-assessed and does not support the value claimed by McKinney.

McKinney told this Board he believes his property value is impacted by a softball complex directly across the street. He testifies there is a significant amount of traffic due to this complex, his driveway is used as a turn-around, and there is increased noise and crime. He confirms this complex has been completed and in operation since 2000 or 2001.

The Board of Review did not offer any additional evidence or testimony other than what is contained in the certified record. The Board of Review Appraiser Analysis in the certified record is brief and only identifies that there are no comparable sales in the area, and that the steel utility building value seemed a little high considering its orientation on the property. The appraiser recommended to the Board of Review that due to the steel building's orientation, a reduction was proper. The Board acted on this, making the full adjustment to value recommended by the appraiser.

We find that insufficient evidence has been provided to demonstrate the subject is inequitably assessed or assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). McKinney provided four properties he considered as equity comparables, however three of four were found by this Board to not be similar to his property. The fourth property has a higher assessed value, although it's a smaller site with no outbuildings. The fourth property does not show inequity in the assessment.

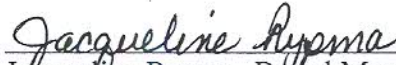
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). McKinney asserts the property is assessed for greater than authorized by law, but he fails to offer any evidence to support this claim or to demonstrate the correct value of the property. A claim under 441.37(1)(b) generally requires that the subject property or comparable properties, have been sold in normal transactions for less than their assessed values. There were not comparable sales presented.

THE APPEAL BOARD ORDERS the assessment of the McKinney's property located at 5083 NE 46th Street, Des Moines, Iowa, of \$308,100, as of January 1, 2009, set by the Polk County Board of Review, is affirmed.

Dated this 7 day of June, 2010



Karen Oberman, Board Chair



Jacqueline Rypma, Board Member

Cc:

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APPELLANTS

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-4</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	